

## **Remarks**

Claims 1-9 and 11-15 are pending.

Claims 1-4, 7-9, 11-12 and 15 are amended.

Claim 1 is amended to clearly incorporate the process steps including the further addition of cosmetically functional agents. Support for the amendments (explicit steps of preparing an oil phase, mixing the aqueous and oil phase and polymerization) may be found in examples A and B and the subsequent formulation on pages 32-37 of the disclosure.

The term "cationic liquid dispersion copolymer" is deleted in all the claims as they have been deleted in claim 1 and thus have no antecedent basis.

Claims 11 and 12 are amended to refer to the "process" rather than "method" for consistency.

No new matter is added.

### **35 USC § 102(b)**

Claims 1-3, 5-9 and 13-14 are rejected under 35 USC 102(b) as being anticipated by Robinson, EP247,774.

Applicants have amended claim 1 to require the step of addition of a cosmetically functional agent. As Robinson does not teach the addition of cosmetically functional agents to his emulsion water in oil emulsions as Robinson is directed to flocculants for mining and paper industries and sewage treatment.

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### **In regard to claim 9**

Further, the applicants point out the proviso in claims 1. At least one of the substituents R<sub>6</sub>, R<sub>8</sub> and R<sub>9</sub> is C<sub>1</sub>-C<sub>6</sub> alkyl. While Robinson teaches acrylamide, methacrylamide, N-methylacrylamide and N-methylmethacrylamide, Robinson does not teach a disubstituted acrylamide nor does Robinson teach a monomer of formula II wherein R<sub>6</sub> is anything other than hydrogen. As claim 9 requires that R<sub>8</sub> and R<sub>9</sub> both signify methyl, claim 9 should never have been listed by the examiner as rejected in view of Robinson.

As there is no suggestion or teaching in Robinson to add cosmetically functional agents the anticipation rejection is overcome.

**35 USC § 103(a)**

**Claims 1-9 and 11-15 are rejected under 35 USC 103(a) as being unpatentable over Green, US 6,365,656 in view of Cockcroft, WO 02/40622 in view of Lentini, US 5,665,368.**

Examiner believes that Green specifically discloses at column 7 lines 9-27 that the reverse phase emulsion is prepared by adding one aqueous ethylenically unsaturated monomer into a hydrophobic liquid with sufficient agitation to form a stable emulsion. Thus according to the examiner the procedure of Green teaches the same technique claimed by applicants in that it adds an aqueous solution containing the monomers to a hydrophobic phase which forms an emulsion.

Applicants have amended the present claims to require that the components a), b) and optionally c) are prepared in an aqueous phase. An oil phase is prepared. The oil and aqueous phases are mixed to form a water-in-oil emulsion; the monomer components a), b) and optionally c) are polymerized to form a copolymer and a cosmetically functional agent is added.

Applicants submit that Green teaches at column 6, line 20 **that the monomers are dispersed in the hydrophobic liquid phase**. The present claim limitation requires dispersal of the **monomers into an aqueous phase**. Thus this step presently claimed distinguishes from the teachings of Green.

Cockcroft teaches **solution** polymers thus does not make up for the limitations of Green. Lentini is used only for the disclosure that oils are well known in cosmetics and provides no information at all regarding the polymerization of monomers in an aqueous phase.

Thus the combination of the three references does not arrive at the present claim limitations.

Additionally, applicants point out the proviso of claim 1, which requires that at least one of the substituents R<sub>6</sub>, R<sub>8</sub> and R<sub>9</sub> is C<sub>1</sub>-C<sub>6</sub> alkyl. Green does not teach a single substituted (meth)acrylamide. Nor does Green teach a monomer of formula II wherein R<sub>6</sub> is anything other than hydrogen.

While Cockcroft does teach substituted acrylamides such as N,N-dimethyl acrylamide, Cockcroft only teaches the use of these monomers in the context of solution polymerization. Cockcroft makes absolutely no suggestion to use said monomers polymerization as presently claimed. While applicants understand that examiner is using Cockcroft only to teach that substituted acrylamide may be used in place of acrylamide, the applicants stress that the same monomers used in solution polymerization may not work in emulsion polymerization. The plucking of the monomers suggested in Cockcroft for solution polymerization and insertion into the emulsion polymerization taught in Green would have little expectation of success.

**Claims 1-9 and 11-15 are rejected under 35 USC 103(a) as being unpatentable over Green, US 6,365,656 in view of Robinson, EP 247,774.**

While Green discloses nonionic monomers such as acrylamide, Green is silent on the use of acrylamides which meets the proviso within applicants claim 1 that at least one of R<sub>6</sub>, R<sub>8</sub> and R<sub>9</sub> is C1-C4 alkyl for monomer II. EP 247, 774 teaches N-substituted acrylamides only , **not** di-substituted acrylamides. Thus at least claim 9 would be unobvious in view of the two references as claim 9 requires that R<sub>8</sub> and R<sub>9</sub> signify methyl and should not have been listed in the above rejection.

However, Green as argued above is deficient in regard to the preparation of the monomers in an aqueous phase. Thus a key step is missing in the combined references.

Further, regardless of the similarities of the polymeric structures taught in Green and Robinson, a reference which teaches the use of a polymer as a mining aid, paper industries and sewage treatment, such as Robinson advises is unsuitable for combination with a composition suitable for personal care.

Reconsideration and withdrawal of the rejection of claims 1-9 and 11-15 is respectfully solicited in light of the remarks and amendments *supra*.

Since there are no other grounds of objection or rejection, passage of this application to issue with claims 1-9 and 11-15 is earnestly solicited.

Applicants submit that the present application is in condition for allowance. In the event that minor amendments will further prosecution, Applicants request that the examiner contact the undersigned representative.

Respectfully submitted,



Sheila A. Loggins  
Agent for Applicants  
Reg. No. 56,221

Ciba Corporation  
540 White Plains Road  
Tarrytown, New York 10591  
(914) 785-2768  
SALV 227151.doc

Enclosure: Petition for a one month extension of time.

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